

This letter responds to a survey concerning taxation of vehicles. (This is a GIL.)

February 1, 2008

Dear Xxxxx:

This letter is in response to your e-mail dated October 9, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Each year this Department submits the attached certification questionnaire to your agency concerning various types of motor vehicles and inquires about their taxable status within your state. Our last request to which you responded was dated October 16, 2006. Your reply and information provided in response to the questionnaire were not only appreciated, but they were also most beneficial to our Department and to those motor vehicle dealers in Florida who have made sales to residents of your state.

To continue using an accurate rate of tax from your state, we would again greatly appreciate your cooperation in completing the attached updated questionnaire.

If there have not been any changes to the taxable status of motor vehicles since your last response, please just respond with that comment. However, please note that there is a new question regarding military personnel on Page Two.

Thank you very much for your help. Please have the completed survey or comments returned to me on or before October 31, 2007.

DEPARTMENT'S RESPONSE:

This letter will follow up our telephone conversation on January 14, 2008. Your questionnaire asks for a response to its questions for 8 different types of vehicles: automobiles, trucks, motor

homes, mobile homes, trailers, boats, motorcycles, and off-road vehicles. The Department cannot approve publications other than those issued by the Department of Revenue. However, we hope the following information will provide sufficient guidance to answer your questions.

1. “Is item taxed under your sales or use tax law? YES or NO:”

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. (35 ILCS 120/2) The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. (35 ILCS 105/3) Each of the items listed in your questionnaire is subject to the Retailers' Occupation Tax and the Use Tax.

2. “If YES, at what rate?:”

The State rate of tax imposed under the Retailers' Occupation Tax Act (35 ILCS 120/2-10) and the Use Tax Act (35 ILCS 105/3-10) is 6.25%. Additional taxes may be imposed by units of local government.

3. “If NO, is this item taxed under another section of your statutes? YES or NO:”

Not applicable.

4. “If YES, please explain.:”

Not applicable.

5. “Does your state exempt occasional or isolated sales between individuals of motor vehicles? YES or NO:”

The Retailers' Occupation Tax Act does contain an occasional sale provision, which is discussed at 86 Ill. Adm. Code 130.110. However, the Vehicle Use Tax is imposed on transfers of motor vehicles between private parties (See 86 Ill. Adm. Code 151.101 et seq.), the Watercraft Use Tax is imposed on transfers of certain watercraft between private parties (See 86 Ill. Adm. Code 153.101 et seq.), and the Aircraft Use Tax is imposed on transfers of aircraft between private parties (See 86 Ill. Adm. Code 152.101 et seq.). These taxes imposed on transfers between private parties (non-retailers) do not exempt isolated or occasional sales.

6. “Do your statutes provide for a maximum amount of tax or tax rate? YES or NO:”

The State rate of tax imposed under the Retailers' Occupation Tax Act and the Use Tax Act is 6.25%. Additional taxes may be imposed by units of local government. Some local taxes have rate caps, some do not. The rate of tax imposed under the Watercraft Use Tax Law and the Aircraft Use Tax Law is 6.25%. For maximum rates under the Vehicle Use Tax, see 86 Ill. Adm. Code 151.101 et seq.

7. “Do your statutes provide for tax computation after trade-in allowance? YES or NO:”

Yes, in retail transactions where the item that is traded-in is of like kind and character as that which is being sold. No, in non-retail transactions. For example, no trade-in allowance is authorized under the Vehicle Use Tax, the Watercraft Use Tax, or the Aircraft Use Tax.

8. **“If YES, please explain.”** See 86 Ill. Adm. Code 130.425.
9. **“If a resident of your state purchases and takes possession of a new or used motor vehicle in Florida, to be licensed within 45 days in your state, and pays sales tax to Florida at the rate applicable in your state, not to exceed 6%, would your state recognize sales tax paid in Florida as being lawfully imposed? (SEE s. 212.08(10)(a), F.S., on the second page.):”**

See 35 ILCS 105/3-55(d).

10. **“Are the sales of motor vehicles to military personnel who are residents of your state exempt? YES or NO:”**

Please note that military personnel are not exempt from taxation in Illinois. If Illinois is the home state of record for such personnel, they owe tax on their purchases as any other Illinois resident would.

11. **“If yes, please explain and/or list statutory or regulatory reference.”**

Not applicable.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk